

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RED LV, LLC, *et al.*,

Plaintiffs,

vs.

WELLS FARGO HOME MORTGAGE, *et al.*,

Defendants.

No. 2:13-cv-930-RCJ-VCF

ORDER AND
REPORT & RECOMMENDATION

This matter involves Red LV, LLC's wrongful foreclosure action against Wells Fargo and the Federal Home Loan Mortgage Corporation. Before the court is Plaintiff's counsel's motion to withdraw (#20¹). For the reasons stated below, the motion is granted and the court recommends dismissing Red LV, LLC.

On April 18, 2014, the court held a hearing on Plaintiff's motion to withdraw. (Mins. Proceeding #22). During the hearing, Plaintiff's counsel stated that he has lost contact with his clients and is currently unable to communicate with them. (*Id.*) Additionally, the court took judicial notice² of the subject parcel's chain of title and asked counsel what, if any, interest Red LV, LLC has in the parcel. (*Id.*) Counsel for both parties agreed that Red LV, LLC has no interest in the parcel, no standing to

/// /// ///

/// /// ///

/// /// ///

¹ Parenthetical citations refer to the court's docket.

² The court may take judicial notice of "matters of public record." *Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001) (citation omitted).

1 litigate the claims asserted in the complaint and, therefore, that Red LV, LLC should be dismissed³ from
 2 this action. (*Id.*)

3 ACCORDINGLY, and for good cause shown,

4 IT IS ORDERED that Attorney Michael J. Harker's motion to withdraw (#20) is GRANTED.

5 IT IS FURTHER ORDERED that a STATUS HEARING is set for 11:00 a.m., June 2, 2014.

6 IT IS FURTHER ORDERED that Plaintiff Adela Munoz must APPEAR IN PERSON for the
 7 status hearing.

8 IT IS FURTHER ORDERED that all deadlines set by the discovery plan and scheduling order
 9 (#18) are VACATED and subject to rescheduling at the status hearing.

10 IT IS RECOMMENDED that Red LV, LLC be DISMISSED WITH PREJUDICE.

11 IT IS FURTHER ORDERED that the Clerk of Court is directed to forward information to the
 12 following address: Adela Munoz, 3557 Ruth Drive, Las Vegas, Nevada 89121.
 13

14 NOTICE

15 Pursuant to Local Rules IB 3-1 and IB 3-2, a party may object to orders and reports and
 16 recommendations issued by the magistrate judge. Objections must be in writing and filed with the Clerk
 17 of the Court within fourteen days. LR IB 3-1, 3-2. The Supreme Court has held that the courts of appeal
 18 may determine that an appeal has been waived due to the failure to file objections within the specified
 19 time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file
 20 objections within the specified time and (2) failure to properly address and brief the objectionable issues
 21

22 ³ The court may dismiss a party *sua sponte*. See *Wong v. Bell*, 642 F.2d 359, 361–62 (9th Cir. 1981) (citing 5 C.
 23 WRIGHT & A. MILLER, FEDERAL PRACTICE AND PROCEDURE § 1357 at 593 (1969)). However, the court must
 24 afford the plaintiff “an opportunity to at least submit a written memorandum in opposition.” *Crawford v. Bell*, 599
 25 F.2d 890, 893 (9th Cir. 1979) (citing *Potter v. McCall*, 433 F.2d 1087, 1088 (9th Cir. 1970)). This requirement is
 satisfied by this court's report and recommendation, which automatically affords Olarte fourteen days to object.
 See 28 U.S.C. § 636; Local Rule IB 3-2.

1 waives the right to appeal the District Court's order and/or appeal factual issues from the order of the
2 District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch.*
3 *Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

4 DATED this 25th day of April, 2014.

5
6 

7
8 CAM FERENBACH
9 UNITED STATES MAGISTRATE JUDGE
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25